

Appendix

ALASKA WORKMEN'S COMPENSATION ACT.

Sections 43-3-1 et seq., Alaska Compiled Laws Annotated, 1949.

Section 43-3-1. Employments covered: Compensation allowed: Death benefits: Total and permanent disability: Partial permanent disability: Disfigurement: Temporary disability: Loss of members: Amputations: Other permanent partial injuries: Payments to second injury fund: Fund beneficiaries: Refund of payments to fund: Injury causing permanent disability when combined with previous disability.

Any person or persons, partnership, joint stock company, association or corporation, employing one or more employees in connection with any business occupation, work, employment or industry, carried on in this Territory, including any department, agency or instrumentality of the Territorial Government, Municipality or Public Utility District, except domestic service, agriculture, dairying, or the operation of railroads as common carriers, shall be liable to pay compensation in accordance with the schedule herein adopted, to each of his, her, their or its employees who receives a personal injury arising out of and in the course of his or her employment or to the beneficiaries named herein, as the same are hereinafter designated and defined in all cases where the employees shall be so injured and such injuries shall result in his or her death.

[*Compensation allowed.*] The compensation to which such employee so injured, or, in case of his or her

death, if death results from such injury, such beneficiaries shall be entitled, and for which such employer shall be legally liable, shall be as follows:

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[*Total and permanent disability.*] Where any such employee receiving an injury arising out of, and in the course of his or her employment, as the result of which he or she is totally and permanently disabled, he or she shall be entitled to receive compensation as follows:

(a) (Married person.) If such employee was at the time of his injury married he shall be entitled to receive Seven Thousand Two Hundred Dollars (\$7,200.00) with Nine Hundred Dollars (\$900.00) additional for each child under the age of eighteen (18) years, but the total to be paid shall not exceed Nine Thousand Dollars (\$9,000.00).

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[*Partial permanent disability.*] Where any such employee receives an injury arising out of, and in the course of his or her employment, resulting in his or her partial permanent disability, he or she shall be paid in accordance with the following schedule:

For the loss of a Thumb:

- 1 (a) In case the employee was at the time of the injury unmarried, \$720.00.
- 1 (b) In case the employee was married but had no children, \$900.00.
- 1 (c) In case the employee was either married or a widower, but had one or more children, \$1,080.00.

For the loss of an Index Finger:

2 (a) In case the employee was at the time of the injury unmarried, \$450.00.

2 (b) In case the employee was married but had no children, \$585.00.

2 (c) In case the employee was either married or a widower, but had one or more children, \$720.00.

For the loss of any other Finger than the Index Finger and Thumb, \$270.00.

For the loss of a Great Toe, \$450.00.

For the loss of any other Toe than the Great Toe, \$180.00.

For the loss of a Hand:

3 (a) In case the employee was at the time of the injury unmarried, \$2,160.00.

3 (b) In case the employee was married but had no children, \$2,880.00.

3 (c) In case the employee was either married, or a widower and had one child, \$2,880.00 and \$360.00 additional for each additional child, not to exceed, however, the total sum of \$3,600.00.

For the loss of an Arm:

4 (a) In case the employee was at the time of the injury unmarried, \$2,700.00.

4 (b) In case the employee was married but had no children, \$3,600.00.

4 (c) In case the employee was either married, or a widower and had one child, \$3,600.00 and \$450.00

additional for each such additional child, the total amount not to exceed, however, \$4,500.00.

For the loss of a Foot:

5(a) In case the employee was at the time of the injury unmarried, \$2,160.00.

5(b) In case the employee was married but had no children, \$2,700.00.

5(c) In case the employee was either married, or a widower and had one child, \$2,880.00 and \$360.00 additional for each additional child, but not to exceed the total sum of \$3,600.00.

For the loss of a Leg:

6(a) In case the employee was at the time of the injury unmarried, \$2,700.00.

6(b) In case the employee was married but had no children, \$3,600.00.

6(c) In case the employee was either married, or a widower and had but one child, \$3,600.00 with \$450.00 for each such additional child not to exceed the total sum of \$4,500.00.

For the loss of an Eye:

7(a) In case the employee was at the time of the injury unmarried, \$2,160.00.

7(b) In case the employee was married but had no children, \$2,880.00.

7(c) In case the employee was either married, or a widower and had one child, \$2,880.00 plus \$360.00 for each additional child, not to exceed, however, the total sum of \$3,600.00.

For the loss of an Ear: \$360.00.

For the loss of hearing in one Ear: \$720.00.

For the loss of the Nose: \$720.00.

Compensation for permanent total loss of use of a member shall be the same as for the loss of such member.

[*Disfigurement.*] The Industrial Board may award proper and equitable compensation for serious head, neck, facial, or other disfigurement, not exceeding however, the sum of Two Thousand Dollars (\$2,000.00).

[*Temporary disability.*] For all injuries causing temporary disability, the employer shall pay to the employee, during the period of such disability, sixty-five per centum (65%) of his daily average wages. And in all cases where the injury develops or proves to be such as to entitle the employee to compensation under some provision in this schedule, relating to cases other than temporary disability, the amount so paid or due him shall be in addition to the amount to which he shall be entitled under such provision in this schedule.

Payment for such temporary disability shall be made at the time compensation is customarily paid for labor performed or services rendered at the plant or establishment of the employer liable therefor and not less than once a month in any event.

The average daily wage earning capacity of an injured employee in case of temporary disability shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his daily

wage earning capacity. If such earnings do not fairly and reasonably represent his daily wage earning capacity, the Industrial Board shall fix such daily wage earning capacity as shall be reasonable and have a due regard for the nature of his injury, the degree of temporary impairment, his usual employment and any other factor or circumstance in the case which may affect his capacity to earn wages in his temporary disabled condition.

[*Loss of members as total permanent disability.*] The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, or hearing in both ears, shall constitute total and permanent disability and be compensated according to the provisions of this Act with reference to total and permanent disability.

[*Amputations.*] Amputation between the elbow and the wrist shall be considered equivalent to the loss of an arm, and amputation between the knee and the ankle shall be considered equivalent to the loss of a leg.

[*Other permanent partial injuries.*] Whenever such employee receives an injury, arising out of and in the course of employment, as a result of which he or she is partially disabled, and the disability so received is such as to be permanent in character and such as not to come wholly within any of the specific cases for which provision is herein made, such employee shall be entitled to receive as compensation a sum which bears the same relation to the amount he or she would

be entitled to receive hereunder if he or she were totally and permanently disabled that the loss of earning capacity such employee by reason of the injury, bears to the earning capacity such employee would have had had he or she not been injured, the amount to be paid in no case to exceed Seven Thousand Two Hundred Dollars (\$7,200.00).

To illustrate: If said employee were of a class that would entitle him or her to Seven Thousand Two Hundred Dollars (\$7,200.00) under this schedule, if he or she were totally and permanently disabled, and his or her injury would be such as to reduce his or her earning capacity twenty-five per centum (25%), he or she would be entitled to receive One Thousand Eight Hundred Dollars (\$1,800.00), it being the amount that bears the same relation to Seven Thousand Two Hundred Dollars (\$7,200.00) that twenty-five per centum (25%) does to one hundred per centum (100%). Should such employee receive an injury that would impair his or her earning capacity seventy-five per centum (75%), he or she would be entitled to receive Five Thousand Four Hundred Dollars (\$5,400.00), it being the amount that bears the same relation to Seven Thousand Two Hundred Dollars (\$7,200.00) that seventy-five per centum (75%) does to one hundred per centum (100%).

(9) [Payments to second injury fund]. Whenever an employee shall suffer a compensable injury which results in permanent partial disability by reason of the total or partial loss or loss of use of a member or members, as provided in Paragraph (8) hereof,

and which injury entitled him or her to compensation pursuant to such Paragraph (8), the employer, or his insurance carrier, shall, in addition to the compensation provided for in said Paragraph (8), pay into the second injury fund a lump sum, without interest deductions, equal to two per centum (2%) of the total compensation to which the employee is entitled under said Paragraph (8) of this section for the said permanent partial disability, the said sum to be paid into such second injury fund as soon as the total amount of the permanent partial disability payable for the particular injury is determined by the Industrial Board.

(10) [Second injury fund beneficiaries.] The sums required to be paid into the second injury fund under the provisions of Paragraphs (7), (8) and (9) of this section shall be paid into said second injury fund of the Commissioner of Labor for the sole benefit of those entitled to participate therein under the provisions of Paragraph (12) of this section, the same to be paid out by said Commissioner of Labor in accordance with the orders and awards of the Industrial Board.

(11) [Refund of payments to second injury fund.] In case a deposit or payment has been made into such second injury fund, as provided in Paragraph (7) of this section, and it is later shown that there are other beneficiaries or that the beneficiaries designated are entitled to further or greater benefits, or, as provided in Paragraph (8) of this Section, and it is later shown that there are beneficiaries entitled to compensation,

or, if deposits or payment has been made pursuant to Paragraph (9) hereof by mistake or inadvertence or under such circumstances that justice requires a refund thereof, the Industrial Board is hereby authorized to refund such deposit or payment.

(12) [Injury causing total permanent disability when combined with previous disability.] In those cases where an employee receives an injury arising out of and in the course of his or her employment which, if itself, would cause only permanent partial disability but which, combined with a previous disability or injury, does in fact cause permanent total disability, the employer shall only be liable for the permanent partial disability caused by the subsequent injury; provided, however, that in addition to compensation for such permanent partial disability and after the cessation of the payments for the amounts prescribed therefor, the injured employee shall be paid the remainder of the compensation that would be due for permanent total disability out of the second injury fund hereinbefore created and provided.

Section 43-3-10, Alaska Compiled Laws Annotated, 1949.

Section 43-3-10. Right to compensation exclusive: Failure to secure insurance: Election of remedies: Pleading or proof of contributory negligence unnecessary: Defenses barred.

The right to compensation for an injury and the remedy therefore granted by this Act shall be in lieu of all rights and remedies as to such injury now existing either at common law or otherwise, and no rights

or remedies, except those provided for by this Act, shall accrue to employees entitled to compensation under this Act while it is in effect; nor shall any right or remedy, except those provided for by this Act accrue to the personal or legal representative, dependents, beneficiaries under this Act, or next of kin of such employee; provided, however, that if an employer fails to secure the payment of compensation as required by this Act, by insuring with an authorized insurance carrier or by meeting the requirements for self insurance, then any injured employee, or, in case of death, his or her beneficiaries, may, at his, her or their option, elect to claim compensation under this Act or to maintain an action in the courts for damages on account of such injury or death; and, in the event of his, her or their election to bring such action it shall not be necessary to plead or prove freedom from contributory negligence, nor may the defendant employer plead or prove as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due, in whole or in part, to the contributory negligence of the employee.

Section 43-3-22. Alaska Compiled Laws Annotated, 1949.

Section 43-3-22. Award to be final and conclusive: Questions of fact: In junction proceedings: Certification of questions by Board: Advancement on docket: Early determination: Increase in award. An award of the Board, by less than all of the members, as provided in Section 15 [Sec. 43-3-15 herein], if not

reviewed as provided in Section 16 [Sec. 43-3-16, herein], shall be final and conclusive.

An award by the full Board shall be conclusive and binding as to all questions of fact; but either party to the dispute, within thirty days from the date of such award, if the award is not in accordance with law, may bring injunction proceedings, mandatory or otherwise, against the Industrial Board, to suspend or set aside, in whole or in part, such order or award. Such proceedings shall be instituted in the United States District Court for the district in which the injury occurred. The orders, writs and processes of the Court in such proceeding may run, be served, and be returnable in accordance with the rules of said Court, but the return day and hearing thereon shall not be later than sixty days after the institution of such proceedings. The payment of the amounts required by such award shall not be stayed pending final decision in any such proceeding unless, upon application for an interlocutory injunction, the Court on hearing, after not less than ten days' notice to the parties and the Industrial Board, allows the stay of such payments, in whole or in part, where substantial damage would otherwise ensue to the employer. The order of the Court allowing any such stay shall contain a specific finding, based upon evidence submitted to the Court and identified by reference thereto, that such substantial damage would result to the employer, and specifying the nature of the damage.

The Board, of its own motion, may certify questions of law to said Court for its decision and determination.

All such appeals and certified questions of law shall be advanced upon the docket of said Court, and shall be determined at the earliest practicable date, without extensions of time for filing briefs.

Any award of the full Board affirmed on Court review at the instance of the employer or his insurance carrier may be increased ten per centum by order of the Court.